



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0166]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 26 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2013-0166 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the Federal Register on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief,
Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA,
Department of Transportation, 1200 New Jersey Avenue, S.E., Room W64-224,
Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through
Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” FMCSA can renew exemptions at the end of each 2-year period. The 26 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Herbert R. Benner

Mr. Benner, age 44, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/25, and in his left eye, 20/400. Following an examination in 2013, his optometrist noted, “Most recently Mr. Benner presented with a list of criteria for him to keep his medical card needed to continue driving hazardous materials...It is my opinion that because Mr. Benner has been monocular since birth, and his history of

no work related vehicle incidents whatsoever, he should be a good example of why there are always exceptions to the rule. It would be a shame to not allow Mr. Benner to continue to drive and make a living hauling hazardous materials.” Mr. Benner reported that he has driven straight trucks for 25 years, accumulating 1 million miles. He holds a Class B Commercial Driver’s License (CDL) from Maine. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 18 mph.

Junior Chavarria

Mr. Chavarria, 31, has had amblyopia in his left eye since amblyopia since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2013, his optometrist noted, “In my medical opinion, I feel that Mr. Chavarria has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Chavarria reported that he has driven tractor-trailer combinations for 3 years, accumulating 1,500 miles. He holds a Class A CDL from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Albert M. DiVella

Mr. DiVella, 71, has had macular degeneration in his left eye since 2007. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2013, his ophthalmologist noted, “No change has occurred in Mr. DiVella’s vision in over 7 years. No driving restrictions are necessary for this patient to safely operate a commercial motor vehicle.” Mr. DiVella reported that he has driven buses for 8 years, accumulating 320,000 miles. He holds a Class B CDL from Nevada.

His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Terry D. Elliot

Mr. Elliot, 58, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist noted, "In my medical opinion he has sufficient vision to operate a commercial vehicle." Mr. Elliot reported that he has driven straight trucks for 12 years, accumulating 240,000 miles. He holds Class A CDL from Tennessee. His driving record for the last 3 years shows one crash, to which he contributed by improper backing and careless or erratic driving, and no convictions for moving violations in a CMV.

Bernard T. Gillette

Mr. Gillette, 45, has had a retinal detachment in his right eye since 1989. The visual acuity in his right eye is hand motion, and in his left eye, 20/25. Following an examination in 2013, his optometrist noted, "In my medical opinion he does have sufficient vision to perform the driving tasks required to operate a commercial vehicle under the current driving regulations." Mr. Gillette reported that he has driven straight trucks for 40 years, accumulating 1.4 million miles, and tractor-trailer combinations for 38 years, accumulating 399,000. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James B. Grega

Mr. Grega, 30, has had amblyopia in his right eye since birth. The visual acuity in

his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "In my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Grega reported that he has driven straight trucks for 4 years, accumulating 4,000 miles, and tractor-trailer combinations for 4 years, accumulating 400 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steven M. Hoover

Mr. Hoover, 37, has a prosthetic right eye due to a traumatic incident in 1985. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2013, his optometrist noted, "Has vision capable of driving a commercial vehicle." Mr. Hoover reported that he has driven straight trucks for 20 years, accumulating 10,000 miles, and tractor-trailer combinations for 6 years, accumulating 90,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gregory R. Johnson

Mr. Johnson, 45, has a retinal detachment in his right eye due to a traumatic incident in 1976. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "It is my professional opinion that since Mr. Johnson has apparently had a flawless driving record over the past 3 years doing this work that he has sufficient vision to perform his required tasks. It should be noted that I have had many professional truck drivers over the past 40 years who had amblyopia, trauma et. al. to one of their eyes and there was never a

problem of driving safety. Most had been driving for many, many years with flawless records.” Mr. Johnson reported that he has driven straight trucks for 6 years, accumulating 90,000 miles. He holds an operator’s license from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lewis J. Johnson

Mr. Johnson, 48, has a retinal detachment in his right eye due to a traumatic incident in 1998. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, “Bilateral vision is sufficient to operate commercial vehicle.” Mr. Johnson reported that he has driven straight trucks for 28 years, accumulating 420,000 miles. He holds an operator’s license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Carol Kelly

Ms. Kelly, 51, has had amblyopia in her left eye since birth. The visual acuity in her right eye is 20/20, and in her left eye, 20/200. Following an examination in 2013, her optometrist noted, “In my opinion she has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Ms. Kelly reported that she has driven straight trucks for 4 years, accumulating 223,200 miles, tractor-trailer combinations for 1 year, accumulating 24,000, and buses for 16 years, accumulating 2.95 million miles. She holds a Class B CDL from Indiana. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jeremy W. Knott

Mr. Knott, 38, has had a retinal detachment in his right eye since 1998. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, “In my medical opinion, Jeremy has sufficient vision to operate commercial motor vehicles.” Mr. Knott reported that he has driven straight trucks for 14 years, accumulating 87,500 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Chase L. Larson

Mr. Larson, 42, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/25, and in his left eye, 20/80. Following an examination in 2013, his optometrist noted, “In my professional opinion Mr. Larson has the vision sufficient to operate a commercial vehicle.” Mr. Larson reported that he has driven straight trucks for 2 years, accumulating 115,000 miles, and tractor-trailer combinations for 1.5 years, accumulating 116,250 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald E. Loper

Mr. Loper, 58, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2013, his optometrist noted, “Mr. Loper has been a commercial truck driver for many years and I believe his visual function is adequate to continue driving a commercial vehicle.” Mr. Loper reported that he has driven straight trucks for 37 years, accumulating 1.1 million

miles, and tractor-trailer combinations for 37 years, accumulating 1.1 million miles. He holds an operator's license from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James M. McCleary

Mr. McCleary, 39, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/25. Following an examination in 2012, his optometrist noted, "For Federal Vision Exemption, he has sufficient vision if above conditions meets requirements and approval of the vision program to operate a commercial vehicle." Mr. McCleary reported that he has driven straight trucks for 2 years, accumulating 40,000 miles, and tractor-trailer combinations for 4 years, accumulating 100,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows one crash, to which he did not contribute and for which he was not cited, and no convictions for moving violations in a CMV.

Michael E. Miles

Mr. Miles, 67, has had a retinal detachment in his right eye since 1988. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "With my findings, Mr. Miles has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Miles reported that he has driven straight trucks for 40 years, accumulating 1.2 million miles. He holds a Class AM CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jeremy L. Miller

Mr. Miller, 38, has had amblyopia in his right eye since childhood. The visual

acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "He has sufficient vision to operate a commercial vehicle." Mr. Miller reported that he has driven tractor-trailer combinations for 12.5 years, accumulating 937,500 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald L. Newlin

Mr. Newlin, 65, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his optometrist noted, "In my opinion, as his eye doctor of 8 years, Ronald Newlin has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Newlin reported that he has driven straight trucks for 48 years, accumulating 48,000 miles. He holds a Class B CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Carlos A. Osollo

Mr. Osollo, 44, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his optometrist noted, "He has the sufficient vision necessary to perform the driving tasks required to operate a commercial vehicle." Mr. Osollo reported that he has driven straight trucks for 8 years, accumulating 240,000 miles, and tractor-trailer combinations for 8 years, accumulating 272,000 miles. He holds a Class A CDL from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steven J. Scesnewicz

Mr. Scesnewicz, 50, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/125, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "In my clinical opinion the patient has sufficient vision to perform the tasks required to operate a commercial driving vehicle." Mr. Scensnewicz reported that he has driven straight trucks for 20 years, accumulating 160,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Henry D. Smith

Mr. Smith, 51, has had a prosthetic left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2012, his optometrist noted, "Mr. Smith, despite having a prosthetic left eye, has fully functional vision in his right eye. Because of this, and because of the fact that he has had a functional CDL with no problems for years, I feel that driving abilities are not compromised by his monocular vision." Mr. Smith reported that he has driven straight trucks for 17 years, accumulating 1.36 million miles. He holds a Class B CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dennis R. Stockert

Mr. Stockert, 50, has a retinal detachment in his left eye due to a traumatic incident in 1987. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2013, his optometrist noted, "In my opinion, Mr. Stockert sees well enough binocularly to perform the driving tasks required to

operate a commercial vehicle.” Mr. Stockert reported that he has driven straight trucks for 30 years, accumulating 900,000 miles. He holds an operator’s license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kolby W. Strickland

Mr. Strickland, 35, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/60, and in his left eye, 20/15. Following an examination in 2013, his optometrist noted, “In my opinion, Mr. Strickland’s vision will not impair his ability to operate a commercial vehicle.” Mr. Strickland reported that he has driven straight trucks for 10 years, accumulating 3,500 miles. He holds a Class B CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eric Taniguchi

Mr. Taniguchi, 54, has had Harada’s disease in his left eye since 1984. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2012, his ophthalmologist noted, “It is my medical opinion that Mr. Taniguchi has sufficient vision to operate any vehicle or equipment.” Mr. Taniguchi reported that he has driven straight trucks for 5 years, accumulating 50,000 mile, and tractor-trailer combinations for 23 years, accumulating 230,000. He holds an operator’s license from Hawaii. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Stephen G. Vermilya

Mr. Vermilya, 59, has had amblyopia in his left eye since childhood. The visual

acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2013, his optometrist noted, "In my opinion, the patient has sufficient vision to continue performing the drive [sic] tasks required to operate a commercial vehicle." Mr. Vermilya reported that he has driven straight trucks for 40 years, accumulating 1.2 million miles, and tractor-trailer combinations for 40 years, accumulating 1.2 million miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he disregarded a traffic lane signal.

Cesar Villa

Mr. Villa, 44, has had central scotoma in his left eye since 2009. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his ophthalmologist noted, "The patient presents with CNV to the left eye and presents stable and has sufficient vision to operate a commercial vehicle." Mr. Villa reported that he has driven straight trucks for 8 years, accumulating 440,000 miles, tractor-trailer combinations for 8 years, accumulating 520,000, and buses for 4 months, accumulating 6000 miles. He holds an operator's license from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dennis E. White

Mr. White, 58, has had strabismus in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "Mr. White's central peripheral vision is adequate to perform the driving tasks required to operate a commercial vehicle." Mr. White reported that he

has driven straight trucks for 41 years, accumulating 1.64 million miles, and tractor-trailer combinations for 35 years, accumulating 875,000. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business [Insert date 30 days after date of publication in the FEDERAL REGISTER]. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2013-0166 and click the search button.

When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2013-0166 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to the proposed rulemaking.

Issued on: September 27, 2013.

Larry W. Minor,
Associate Administrator for Policy.

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